IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 17209 of 2004

Between:

1 Kota Chinaswameru, S/o Peddaiah,
R/o Pittalanka, Koduru Mandal, Krishna District
2 Arja Venkata Ramana, S/o Venkata Krishna Rao,
R/o Badevaripalem, Hamlet of Pittallanka, Kodur Mandal, Krishna District
3 Mungala Madhava Rao, S/o Anjaneyulu,
R/o Badevaripalem, Hamlet of Pittallanka, Kodur Mandal,
Krishna District
4 Bade Arjun Rao, S/o Venkateswar Rao,
R/o Badevaripalem, Hamlet of Pittallanka, Kodur Mandal,
Krishna District
5 Thota Nageswara Rao, S/o Venkata Narayana,
R/o Badevaripalem, Hamlet of Pittallanka, Kodur Mandal,
Krishna District
6 Bade Babu Rao, S/o Krishna Murthy,
R/o Badevaripalem, Hamlet of Pittallanka, Kodur Mandal,
Krishna District

..... PETITIONERS

AND

1 The Assistant Commissioner, Endowments Department, Vijayawada,
Krishna District
2 Sri Ubhaya Nageswara Swamy Temple, Pittallanka, Koduru Mandal,
Krishna District represented by its Person-in-Management
3 The Commissioner of Endowments, Tilak Road, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, more particularly in the nature of Writ of Mandamus declaring action of the Respondents in conducting public auction for the lands in Survey Nos.94/1A, 94/1C, R.S.No.201/2, S.Nos.231/1, 233/1 and 233/2 situated at

Pittallanka Village, Kodur Mandal, Krishna District which are in possession of the Petitioners vide auction notification dated 15-09-2004 issued by the 2nd respondent herein as illegal, arbitrary, unreasonable, null and void, without jurisdiction and contrary to the procedure laid down in the Lease Rules and pass such other further order or orders as this Hon'ble Court deems fit and proper in the interest of justice

Counsel for the Petitioner:MRT.N.MRANGA RAO

Counsel for the Respondent Nos 1 & 3 : GP FOR ENDOWMENTS

Counsel for the respondent No. 2:

The Court made the following :

ORDER:

The present writ petition is filed questioning the auction notification dt 15-9-2004 issued by the second respondent proposing to conduct auction of the leasehold rights of the temple lands on 25-9-2004 as illegal and arbitrary.

The petitioners claim to be landless poor and cultivating tenants of the lands belonging to Sri Ubhaya Nageswara Swamy Temple, Pittallanka, Koduru Mandal, Krishna District. While so, it is the case of the petitioners that the second respondent issued the impugned notice dated
15-9-2004, proposing to conduct public auction of the leasehold rights of the lands of the temple, which are under his cultivation. Assailing the said notice, the petitioners filed the present writ petition contending that no notice whatsoever was issued by the second respondent before issuing the impugned auction notice, and further the same violates the provisions of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short the Act) and the orders issued by the Government in G.O. Ms. No.379, Revenue (Endowments-I) Department, dated 11-3-2003.

This Court, by order dated 24-9-2004, while ordering notice before admission, directed maintenance of status quo obtaining as on that date.

Upon receipt of notice, the second respondent filed counter affidavit admitting

the tenancy of the first petitioner, and contended that petitioner Nos. 2 to 6, are in no way connected to the second respondent institution, and are neither tenants of the temple nor are cultivating the temple lands. It is contended that if the subject lands are leased out by way of public auction, the temple is likely to get more income, and get maktha of about 40 bags per annum, which is over and above the quantity being paid by the first petitioner. It is also stated that in terms of Section 82(1) of the Act, all the leases were cancelled and a notice under Rule 5(1) of the A.P. Charitable and Hindu Religious Institutions and Endowments Agricultural Lands Lease Rules 2003 (for short 'the Rules') was issued to the petitioner calling upon him to deliver the possession of the lands in his possession and cultivation, within 30 days. It is further contended that the first petitioner is not a land less poor person as defined under Section 82 of the Act, since he is holding wet land to an extent of Ac. 4-46 cents. The first petitioner having received the under Rule 5 (1) of the Rules, did not file any application to claiming himself to be a landless poor person under Rule 3 of the Rules, and as such, his tenancy was deemed to have been cancelled w.e.f. 28-7-1987.

The second respondent states that except the first petitioner, the other petitioners, are in no way connected with the temple lands, Though the first petitioner is the tenant of the temple, the second respondent states that in view of the provisions of Section 82(1) of the Act, all the tenancies of the temple lands were cancelled, and therefore, he issued notice under Rule 5(1) of the Rules, calling upon the first petitioner to deliver possession of the land in his cultivation within 30 days. The first petitioner, having received the said notice, it is stated by the second respondent, did not file any application as required under Rule 3 of the Rules, claiming himself to be a landless poor person to be eligible for grant of lease of the land, and on the other hand, it is the specific case of the second respondent that the first petitioner is not a land less poor person, as defined under Section 82(1) of the Act, for he is holding wet land to an extent of Ac.4.46 cents, and as such, he is not entitled for grant of lease, and this apart, it is stated that if the subject lands are put to public auction, there is every likelihood of the temple getting more maktha than what is being paid by the first petitioner. When the first petitioner is not a landless poor person, and when there is likelihood of the lands fetching more maktha than what is being paid by the first petitioner, the question of interfering with the impugned auction notice does not arise.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. However, the petitioner is at liberty to participate in the public auction along with others as and when it is conducted by the second respondent. No costs.

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N.V.RAMANA,J

25-4-2005

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Assistant Commissioner, Endowments Department, Vijayawada, Krishna District
2 Sri Ubhaya Nageswara Swamy Temple, Pittallanka, Koduru Mandal, Krishna District represented by its Person-in-Management
3 The Commissioner of Endowments, Tilak Road, Hyderabad

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